

Request for Annual Report of a State-Owned Enterprise

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| Legislation | Official Information Act 1982, s 18(d) |
| Agency | Minister Responsible for Television New Zealand |
| Ombudsman | Sir John Robertson |
| Case number(s) | W31968 |
| Date | May 1994 |

Request for Annual Report of a State-Owned Enterprise—request refused under s 18(d)—ss 15(1) and 17(2)(b) of State-Owned Enterprises Act 1986 regulate manner in which Annual Report to be made available—s 52(3)(b)(ii)—s 18(d) applies provided release in accordance with statutory timeframes

In this case a journalist sought a review of the decision of the Minister Responsible for Television New Zealand to refuse a request for a copy of the Annual Report for Television New Zealand in reliance upon section 18(d) of the OIA. Section 18(d) provides that a request may be refused where the *‘information requested is or will soon be publicly available’*.

The starting point in this investigation was the State-Owned Enterprises Act 1986 which sets out the procedure for publication of the Annual Report of a State enterprise. Section 15(1) of the Act requires a State enterprise to deliver its Annual Report to the shareholding Ministers within three months after the end of the financial year; and section 17(2)(b) requires that within 12 sitting days of receiving the annual report and audited financial statements of the State enterprise for the preceding financial year *‘the responsible Minister for the State enterprise shall lay the documents before the House of Representatives’*.

In these circumstances, the legislation itself regulates the manner in which a State enterprise’s Annual Report is to be made available. This is relevant where such a report is requested under the OIA in that section 52(3)(b)(ii) of that Act expressly provides that nothing in the OIA derogates from any provision in any other Act of Parliament which *‘regulates the manner in which official information may be obtained or made available’*. In other words, the OIA does

not override provisions in other Acts which set out how certain information is to be made publicly available.

Accordingly, it was concluded that the refusal to make the Annual Report available to the requester before it was tabled in Parliament was reasonable in terms of section 18(d), provided publication of the report followed the timeframes set out in the State-Owned Enterprises Act.

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